

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-969V

Filed: December 3, 2015

Unpublished

FRANK STENDAL,

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Petitioner,

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Ruling on Entitlement; Concession;
Tetanus-diphtheria-acellular pertussis
("Tdap"); Shoulder Injury ("SIRVA");
Special Processing Unit ("SPU")

SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Respondent.

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Paul Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.

Traci Patton, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On September 3, 2015, Petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² [the "Vaccine Act" or "Program"]. Petitioner alleges that he suffered a shoulder injury following receipt of his September 2, 2014 Tetanus-diphtheria and acellular pertussis ("Tdap") vaccination. Petition at 2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 3, 2015, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent "has concluded that petitioner's injury is consistent with shoulder injury related to vaccine administration ("SIRVA"), and that it was caused in fact by the Tdap vaccine he received on or about September 2, 2014." *Id.* at 4. Respondent further agrees that no other cause of petitioner's injury has been

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

identified, that the sequela of petitioner's injury persisted for more than six months, and that petitioner has met the statutory requirements for entitlement to compensation. *Id.*

In view of respondent's concession and the evidence before me, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master